

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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BRITTNEY BIEHNER a/k/a BRITTNEY REILLY,

Plaintiff,

Docket No. 19-CV-9646

-against-

THE CITY OF NEW YORK;
NEW YORK CITY DEPARTMENT OF EDUCATION;
OMOTAYO CINEUS; STEVE TRAVERSIERE; and
“JOHN DOE AND JANE DOE # 1-100” said names
being fictitious, it being the intent of Plaintiff
to designate any and all individuals, officers, members,
agents, servants, and/or employees of the
aforementioned agencies owing a duty of care to
Plaintiff, individually and jointly and severally,

Defendants.

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**DECLARATION OF THOMAS F. LIOTTI IN OPPOSITION
TO DEFENDANTS’ MOTION TO DISMISS THE PLAINTIFF’S
AMENDED VERIFIED COMPLAINT**

THOMAS F. LIOTTI, ESQ., hereby declares pursuant to 29 U.S.C §1746:

1. I am the principal attorney with the Law Offices of Thomas F. Liotti, LLC, attorneys for the Plaintiff, BRITTNEY BIEHNER a/k/a BRITTNEY REILLY (“Plaintiff”), and I am admitted to practice in this Court. As such, I am fully familiar with the facts and circumstances of this matter.

2. I submit this Declaration together with the Plaintiff’s Memorandum of Law in Opposition to the Defendants’ (Omotayo Cineus, City of New York, New York City Department of Education, and Steve Traversiere) (“Defendants”), Rule 12(b)(6) motion to dismiss the

Plaintiff's Amended Verified Complaint in its entirety and with prejudice; and for such other and further relief as this Court deems to be just and proper.

3. I have attached hereto the following Exhibit, which is referenced in the accompanying Memorandum of Law in Opposition:

☐ Exhibit A: Plaintiff's Amended Verified Complaint filed March 13, 2020

4. The Plaintiff is a dedicated, effective, and highly respected and highly educated, middle school teacher employed with the Department of Education at the Catherine and Count Basie Middle School 72, in Queens County, New York and has been consistently rated effective with an overall satisfactory rating in her performance as a probationary teacher. The issues in this matter arise as a result of the negligent and fraudulent acts of the Defendants and a continuing pattern of targeting the Plaintiff for unwarranted disciplinary action.

5. The events as outlined in further detail in the Plaintiff's Amended Verified Complaint and perpetrated by the Defendants herein, appropriately demonstrate a violation of the Plaintiff's civil rights and due process and evidence claims of defamation, negligence, breach of contract, negligent and intentional infliction of emotional distress, and fraud/misconduct.

6. The arguments proffered by the Plaintiff in the accompanying Memorandum of Law sufficiently dispute the Defendants (Omotayo Cineus, City of New York, New York City Department of Education, and Steve Traversiere) unsophisticated attempt to argue that the Amended Verified Complaint must be dismissed on multiple grounds, to wit: that the Plaintiff's claims regarding the 2013 events are outside of the three year statute of limitations; that the Plaintiff fails to state a claim under either the Fourteenth Amendment to the United States Constitution or New York State laws concerning defamation and breach of contract; and that the City of New York is a separate legal entity from the DOE and is not a proper party to this matter.

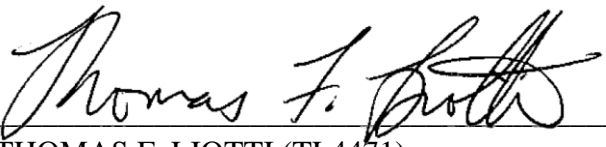
None of these arguments shall prevail to deny the Plaintiff's claims under the unique circumstances of this matter, thus, the Defendants' motion asserts no valid basis for dismissal at the pleadings stage. Therefore, Plaintiff presents herein a sufficient basis for a denial of the Defendants' Motion to Dismiss.

7. It is the Plaintiff's intention to incorporate the facts and claims duly raised in the Amended Complaint filed on March 13, 2020, which has been verified by the Plaintiff, as though they were fully set forth herein.

8. Based on the foregoing the relief requested by the Defendants should be denied in its entirety; and such other and further relief should be granted to the Plaintiff, as to this Court may seem just and proper.

I declare, under penalty of perjury, that the foregoing is true and correct.

Dated: Garden City, New York
April 21, 2020


THOMAS F. LIOTTI (TL4471)